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 INDYZEN, INC.

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

PARKRIDGE LIMITED, a Hong Kong
 corporation, by Mabel Mak, and MABEL
 MAK, an individual,

Plaintiffs,

v.

INDYZEN, INC., a California corporation,
 and PRAVEEN NARRA KUMAR, an
 individual,

Defendants,

CASE NO. 16-CV-07387-JSW

**COUNTER-CLAIMANT INDYZEN, INC.'S
 OBJECTION TO CROSS-DEFENDANTS'
 "MOTIONS TO DISMISS" INDYZEN'S
 PETITION TO COMPEL ARBITRATION
 AND REQUEST TO DEEM THE
 "MOTIONS TO DISMISS" AS
 OPPOSITION BRIEFS**

Date: March 9, 2018
 Time: 9:00 AM
 Dept.: Courtroom 5, 2nd Floor
 Judge: Hon. Jeffrey S. White

AND RELATED CROSS-ACTION.

Counter-Claimant Indyzen, Inc. ("Indyzen") hereby files this objection to each of the "Motions to Dismiss Petition to Compel Arbitration" filed on January 18, 2018 (Dkt. Nos. 43-50) respectively by Counter-Defendants Randy Dobson, California Fitness & Yoga Centers, F8 Vietnam Company Limited, and Boon Global Limited (all jointly referred to as the "Counter-Defendants" throughout this objection). Indyzen objects to the "Motions to Dismiss" because they are not proper procedural responses to the Petition to Compel Arbitration filed by Indyzen on December 14, 2017 (Dkt. Nos. 32 and 41), which is scheduled for hearing on February 16, 2018. Indyzen believes that Counter-Defendants are attempting to use "Motions to Dismiss" instead of

1 proper opposition briefs for gamesmanship purposes that include trying (1) to push the hearing
2 date for Indyzen's petition even further out than it already has been; (2) to attempt to argue that
3 any reply brief filed by Indyzen for its petition is improper, and (3) to try to write sur-replies to
4 the petition while labeling the sur-replies as replies to the "Motions to Dismiss." Indyzen files
5 this objection solely to flag the improper procedure to the Court, does not intend for it to be a
6 formal reply brief or response, and reserves all rights for a full briefing on all filings currently at
7 bar.

8 In each of their "Motions to Dismiss," Counter-Defendants assert that they believe a
9 motion to dismiss is the right way to respond to a petition to compel arbitration, but they do not
10 provide any legal backing for this assertion. (*see* fn. 2 in each filing.) Contrary to Counter-
11 Defendants' assertion, an opposition brief is the proper response to a petition to compel
12 arbitration, since the governing statute plainly says that these types of petitions "shall be made
13 and heard in the manner provided by law for the making and hearing of motions." (9 U.S.C. § 6,
14 providing procedure for petitions to compel arbitration under 9 U.S.C. § 4 like the one currently
15 at bar.) Indeed, there is no law that states that Counter-Defendants' "Motions to Dismiss" are
16 proper responses to a petition to compel arbitration. Thus, it was improper for Counter-
17 Defendants to file "Motions to Dismiss" in response to Indyzen's petition. Further, it seems
18 likely that Counter-Defendants' counsel was aware of the proper procedure, as he previously filed
19 an opposition brief to a petition to compel in this case less than a year ago on March 22, 2017
20 (Dkt. No. 19.) Additionally, the "Motions to Compel" were filed on the deadline for Counter-
21 Defendants opposition briefs to Indyzen's petition.

22 For the foregoing reasons, Indyzen respectfully requests that the Court sustain its
23 objection to the "Motions to Dismiss" filed by Counter-Defendants on January 18, 2018, order
24 that Counter-Defendants' "Motions to Compel" are deemed to be opposition briefs to Indyzen's
25 petition to compel arbitration currently at bar, vacate any hearing dates currently scheduled
26 relating to the "Motions to Dismiss", and order Counter-Defendants not to schedule any further
27 hearing dates for the "Motions to Dismiss". Indyzen also respectfully requests that the Court not
28 grant any requests from Counter-Defendants to reschedule Indyzen's Petition to Compel hearing

1 dates to accommodate their “Motions to Dismiss” hearing date, to the extent that such types of
2 requests are made in the future.

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4 Dated: January 19, 2018

STRUCTURE LAW GROUP, LLP

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6 By: /s/ Ethan G. Solove

7 Ethan G. Solove, Esq.
8 Attorneys for Defendant and Cross-
9 Claimant
10 INDYZEN, INC.
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